

Exhibit F

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division

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UNITED STATES EQUAL EMPLOYMENT :
OPPORTUNITY COMMISSION, :
Plaintiff, :
Vs. : CA No.:
FEDERAL EXPRESS CORP., INC., : WDQ-04-CV-03129
d/b/a FEDEX EXPRESS, :
Defendant. :

COPY

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Wednesday, March 23, 2005

Baltimore, Maryland

Deposition of: VICTOR COFIELD,
the Witness, called for examination by counsel
for the Plaintiff, pursuant to subpoena,
commencing at 9:10 a.m., at the offices of United
States Equal Employment Opportunity Commission,
10 South Howard Street, 3rd Floor, Baltimore,
Maryland, before Curtis R. Cloward, CSR, a Notary
Public in and for the State of Maryland, when

1 might have been passed on via E-mail or verbally,
2 you know, from higher up or across pier to pier
3 that needed to be covered.

4 Q. Okay.

5 Do you know whether the orientation
6 video tapes were closed captioned?

7 A. No, ma'am, they weren't.

8 Q. How do you know that?

9 A. Because I ordered them specifically
10 when I came on board because of the situation
11 that I had with Ron when I got there. Because,
12 in order to communicate with Ron I had to write
13 everything down --

14 Q. Um-hum.

15 A. -- all right? So I had to call
16 Memphis, Tennessee, which is the headquarters,
17 and when we had like tapes such as which was
18 called Front Line --

19 Q. Um-hum.

20 A. -- which was the -- it was like the
21 communication tape between corporate and the
22 field.

1 Q. -- about any other employee?

2 A. No.

3 Q. Okay.

4 MS. MOROCCO: I'd like to take about a
5 five-minute break.

6 (Whereupon, there was a short pause in
7 the proceedings.)

8 MS. MOROCCO: Back on the record.

9 BY MS. MOROCCO:

10 Q. When did you first begin supervising
11 Ronald Lockhart?

12 A. I would say when I first got there in
13 July of 2000.

14 Q. July of 2000?

15 A. Yes.

16 Q. What was your position in July of
17 2000?

18 A. I was the a.m. sort manager.

19 Q. Tell me again when you became the
20 operations manager at BWI?

21 A. It's the same position.

22 Q. Okay.

1 time you became Mr. Lockhart's supervisor about
2 how the managers were providing Mr. Lockhart with
3 information from the pre-work meetings?

4 A. I wasn't given any instruction on how
5 to communicate with Mr. Lockhart except for what
6 I was doing. I would write what I needed down
7 for Mr. Lockhart to do, pass it to Mr. Lockhart,
8 and then Mr. Lockhart would give me his response.

9 If Mr. Lockhart needed something from
10 me he would come to my office and he would
11 already have it written down and he would give it
12 to me.

13 The only other way me and Mr. Lockhart
14 communicated was that he had my business card
15 with my E-mail address on it and he would E-mail
16 me from home any concerns or anything he had and
17 I would E-mail him back.

18 Q. Okay.

19 What is your understanding of what
20 Mr. Lockhart's primary language is at the time --
21 strike that.

22 At the time you became his supervisor

1 don't feel good, things like that.

2 Q. Let me just interject here for a
3 minute. When you say he would say, I'm -- and
4 you were mimicking as if you were writing, so can
5 you just --

6 A. Right, he would write, saying that I'm
7 going to the rest room.

8 Q. He wouldn't actually verbalize.

9 A. No, he couldn't.

10 Q. Would he make any signs with regards
11 to his whereabouts?

12 A. No, he would write it down.

13 The only time that we understood a
14 sign that Ron would do is if he didn't feel well.

15 Q. Okay.

16 A. He would sign as if he didn't feel
17 well.

18 Q. How did you know what that sign meant?

19 A. He would do like this (demonstrating)
20 and like this (demonstrating) and make like
21 motions as if he was uncomfortable.

22 Q. Can you describe for the record what

1 A. Yes.

2 Q. Okay.

3 How did you first become aware of the
4 fact that Mr. Puglisi has some ability to
5 communicate with the deaf through signs?

6 A. I observed him one Sunday
7 communicating with Ron.

8 Q. Okay, and how long after you became
9 the operations manager in charge of Lockhart did
10 you observe this?

11 A. Oh, I'm not sure.

12 Q. Was it soon after you became
13 Lockhart's supervisor? Was it --

14 A. Middle of the road. I'm not exactly
15 sure when I observed it. But I know it was
16 before I contacted Derwood to come in to help me.

17 Q. Okay.

18 And did you have a conversation with
19 Mr. Puglisi about his ability to communicate with
20 the deaf using signs?

21 A. Yes.

22 Q. What did you ask him?

1 A. How did he learn. And he explained to
2 me that his mother was deaf so he had learned as
3 a child to communicate with his mother. And I
4 asked him would he help me with Ron.

5 Q. When you asked him whether he would
6 help you what were you asking him to help you
7 with?

8 A. To make sure that I can communicate
9 with Ron. Anything that I needed passed on to
10 Ron I wanted to make sure Ron fully understood
11 it.

12 Q. Um-hum.

13 A. And the only reason I was concerned
14 was because that Ron couldn't he couldn't hear or
15 speak --

16 Q. Um-hum.

17 A. -- so I wanted to make sure I wasn't
18 losing anything in the translation. Because if I
19 had printed materials I would hand the printed
20 materials such as E-mails, memos, things like
21 that to Ron. But I still wanted to make sure
22 that Ron had a way to communicate back to me so

1 **Mr. Koorbush about sign language interpreters?**

2 A. Because it was brought to my attention
3 that they had other employees who were -- had
4 that disability working at Dulles. And I called
5 Ed and asked him how did he communicate with
6 those employees and that's when he gave me
7 Derwood's name and told me to contact Derwood.

8 Q. How was it brought to your attention
9 about the deaf employees at IADR?

10 A. I talked to a truck driver.

11 Q. Who was that?

12 A. I don't remember the guy's name, I
13 just know him working at Federal Express. But he
14 told me that they had deaf employees there and to
15 contact Ed and Ed could probably get me some help
16 because he said they had a guy come in and
17 interpret for him.

18 And I asked him was the guy a Federal
19 Express employee, and he said he wasn't sure if
20 he worked for Federal Express but I could ask Ed.
21 And I asked Ed and that's when he gave me
22 Derwood's number. And Derwood works for the

1 Q. Okay.

2 Let's go back in time to when

3 Mr. Puglisi was doing some interpreting.

4 He only interpreted -- strike that.

5 Do you know whether this arrangement
6 with Puglisi continued for several weeks, several
7 months, was it a year?

8 A. It was at least a year, because I had
9 him set in on Ron's review.

10 Q. Okay.

11 A. His annual review.

12 Q. And did he interpret more than one
13 annual review for Mr. Lockhart?

14 A. Just one.

15 Q. Okay.

16 And when is Mr. Lockhart's annual
17 review?

18 A. I don't remember off the top of my
19 head. It should be in his notes, somewhere in
20 his personnel file.

21 Q. Okay.

22 How did you become aware that

1 Q. And did that individual specifically
2 tell you about Mr. O'Quinn?

3 A. The truck driver didn't, he just told
4 me that there was someone there that interpreted
5 for the disabled employees at his facility --

6 Q. Right.

7 A. -- that he had observed.

8 Q. Right.

9 A. And he asked me to call his senior
10 manager, who was Ed Koorbush, and maybe he could
11 fill me in on what was going on.

12 Q. Right.

13 A. And that's when I called Ed. And Ed
14 referred me to the other senior manager there,
15 who was Tony Russell. And then Tony Russell put
16 me in contact with Derwood O'Quinn, who said that
17 he had used his services in the past to do work
18 group meetings and meetings where information
19 needed to be passed on to employees with
20 disabilities.

21 Q. Do you remember what time of year it
22 was when you spoke with Mr. Russell?

1 Q. Prior to you obtaining Mr. O'Quinn as
2 an interpreter were you aware of monthly
3 meetings, work group meetings that Mr. Lockhart
4 attended that were not interpreted?

5 A. Yes.

6 Q. Approximately how many meetings while
7 you were his supervisor do you think he attended
8 that were not interpreted?

9 A. Quite a few.

10 Q. Can you -- do you remember any of the
11 topics that were discussed at any of the work
12 group meetings that Lockhart attended --

13 A. No.

14 Q. -- that were not interpreted?

15 A. Not really. It was so long -- it's
16 been so long, not really.

17 Q. Can you tell me are there topics that
18 come up with any kind of regularity at the work
19 group meetings?

20 A. Pay raises would be the only thing
21 that I can think of. Pay raises or weather
22 conditions, changing weather conditions that

1 might affect the sort.

2 Q. You would talk about that once a
3 month, the weather?

4 A. Yes, because, for instance, right now
5 we're going -- it's spring, so we're going to
6 have a lot of rain --

7 Q. Um-hum.

8 A. -- which would cause the concern on
9 the decking that the containers go across because
10 it would become very slippery. So, we have to
11 tell you to watch your footing, make sure that
12 you cone off any area close to the decking
13 between the decking and the ramp --

14 Q. Um-hum.

15 A. -- cone that off because someone could
16 slip off the decking.

17 Q. Right.

18 A. Right. And I had to make sure Ron
19 knew, you know, write it down, make sure Ron knew
20 that, what we were talking about because I didn't
21 want him to injure himself.

22 Q. Okay.

1 **Did you provide any notes to**
2 **Mr. Lockhart to provide him information that you**
3 **conveyed at the work group meeting?**

4 A. Yes, I started writing out actual
5 notes prior to the meetings each meeting in the
6 morning --

7 Q. Um-hum.

8 A. -- because of the fact that I couldn't
9 get Derwood to come every day. So the days that
10 Derwood wasn't there I would just jot down bullet
11 statements of what I was going to cover in the
12 meetings and hand it to, you know, Ron and it was
13 one other employee that was there.

14 Q. Are you talking about the pre-sort
15 meetings?

16 A. Yes.

17 Q. Let's focus on the monthly meetings
18 and then we'll talk some more about the pre-sort
19 meetings.

20 A. The monthly meetings prior to Derwood
21 I would give to Ron in a written memo. And
22 again, it would be bulletized what I talked

1 about.

2 Q. When would you give him the memo?

3 A. At the meeting. You know, right when
4 we sat down I would hand him, the people in the
5 room, not just Ron, but the people in the room,
6 copies of the monthly meetings and any things,
7 changes that were going on.

8 Q. Would you give these written materials
9 just to Ron?

10 A. During the week, yes.

11 Q. No, no --

12 A. Oh, the monthly thing?

13 Q. Yes.

14 A. No, it would go to everyone.

15 Q. Okay, so he was given information that
16 everyone else was also getting.

17 A. Right. Yes.

18 Q. And during these monthly meetings
19 would you talk about the items that were
20 bulleted, that were --

21 A. Yes.

22 Q. Would you talk about the information

1 that was contained in the written materials?

2 A. Yes.

3 Q. How -- would these be written
4 materials that you yourself would prepare?

5 A. Yes.

6 Q. Would you type them?

7 A. Yes.

8 Q. On the computer?

9 A. Yes.

10 Q. Did you type these -- where did you
11 type these?

12 A. On my computer desk-top.

13 Q. At work or at home?

14 A. At work.

15 Q. Did you create any of these at home?

16 A. No.

17 Q. Did you keep any of these written
18 materials that you distributed at the monthly
19 meetings?

20 A. Yes, in a drop file.

21 Q. What's a drop file?

22 A. Where I keep my notes or doctor slips,

1 Q. Well, were they printed off the
2 computer and --

3 A. And then handed to him.

4 Q. Right, so it would be letter sized,
5 regular paper sized?

6 A. Correct, yes.

7 Q. And was it -- did you write in
8 sentences or was it more of an outline format?

9 A. Outline format.

10 Q. Okay, so when you said bullet, I think
11 you previously to bullets?

12 A. Right.

13 Q. So it would be an outline.

14 A. Right.

15 Q. Okay.

16 And the monthly meetings would last
17 approximately how long?

18 A. Thirty minutes.

19 Q. Did they ever last longer?

20 A. Yes.

21 Q. What was the range of time they could
22 last?

1 A. No more than 45 minutes because we had
2 a sort to do.

3 Q. Okay.

4 A. Thirty minutes would be the average,
5 45 minutes if they got into people not
6 understanding things or asking more questions
7 about a topic.

8 Q. Now, were there topics that you would
9 discuss at the monthly meetings that were not
10 outlined, that were not contained in the written
11 materials?

12 A. Yes, if someone brought up a question
13 or something it wouldn't be in the outline.

14 Q. Did the monthly meetings typically
15 have a question -- a period during which
16 employees could ask you questions?

17 A. At the end.

18 Q. Did anyone else, other managers make
19 presentations at the monthly meetings?

20 A. Elizabeth Bergin.

21 Q. And did you -- did you both make
22 presentations at every monthly meeting?

1 A. -- schedule change.

2 Okay, if we changed the aircraft size
3 or we changed or we added additional aircraft
4 like we would at peak season, which is our
5 heaviest volume season from November through
6 December 26th --

7 Q. Um-hum?

8 A. -- we would have additional aircraft,
9 meaning we would have additional freight.

10 Q. Um-hum.

11 A. So, we had to explain to the employees
12 that we were probably bringing on more employees
13 to help with the increase in volume.

14 If we changed trucking routes, you
15 know, what made up a change, whether we had more
16 pure containers or mini-sort containers, and that
17 would definitely impact the people on the sort.

18 So those type things were brought up.

19 Q. What safety issues do you recall
20 discussing prior to --

21 A. Steel-toed shoes, gloves, no rings or
22 watches, no cell phones on a sort, watching your

1 Express for Mr. O'Quinn, the one that goes back
2 farthest in time, has a date of January 7th at
3 the top (indicating).

4 My question to you is do you recall
5 Mr. O'Quinn interpreting at the BWI ramp prior to
6 January 7th of 2002?

7 A. No.

8 Q. Do you recall what this invoice was
9 for that we're looking at, which says VCF 123 at
10 the bottom?

11 A. Yeah, it's for a meeting, looks like a
12 -- let me see, it had to be a Tuesday morning
13 meeting.

14 Q. Why do you think it was a Tuesday
15 morning meeting?

16 A. Because it's at 3:00 a.m.

17 Q. Actually, it says January 7th was a
18 Monday (indicating).

19 A. It should have been Tuesday morning.
20 It's not Monday, we don't work on Monday. It's
21 actually Tuesday morning.

22 Q. And the reason why you think this is a

1 A. It was basically one manager and
2 everybody else was hourly employees.

3 Q. Okay.

4 And so, the handlers who participated
5 on the safety committee then had a responsibility
6 to convey safety issues --

7 A. Yes.

8 Q. -- to their co-workers at the pre-sort
9 meeting; is that correct?

10 A. Yes. And they also issued what was
11 called tickets. And the tickets were for safety
12 violations that they observed during the sort.

13 Q. Okay.

14 A. If you did something improperly, the
15 first time they gave you a verbal warning. And
16 they had someone, either the team leader
17 themselves or a manager, instruct you on the
18 proper way to execute what you were doing.

19 Q. Okay.

20 A. If you were tagged a second time then
21 it was -- the tickets were turned in to the
22 manager and at that point you would receive a

1 verbal warning about your unsafe act.

2 Q. Do you know whether Ronald Lockhart
3 ever received a ticket?

4 A. No, he didn't. Not to my knowledge,
5 no.

6 Q. Do you know whether he got a verbal
7 warning for an unsafe act?

8 A. Not from me, no.

9 Q. Do you know whether from anybody else?

10 A. No, I don't.

11 Q. Okay, so, tell me -- I'd like to know
12 more about the notes that you provided for the
13 pre-sort meetings.

14 When did you start making the notes?

15 A. Probably when Derwood came on. At the
16 same time that Derwood came on because that was
17 my way of communicating with Ron when Derwood was
18 not there.

19 Q. Okay.

20 A. So, whenever the date that Derwood
21 came on, shortly behind it, that's when we
22 started actually giving out the pre-work meeting

1 demonstrated what the change was.

2 Q. Was the change in the sort something
3 that you would talk about in a pre-sort meeting?

4 A. Yes. Yes.

5 Q. Prior to when you started the regular
6 practice of giving out the notes -- strike that.

7 Other than the sort, were there other
8 issues that you gave Mr. Lockhart notes about
9 related to the pre-work meeting with any kind of
10 regularity?

11 A. No.

12 Q. Okay, how long did the pre-work
13 meetings last?

14 A. Ten minutes, generally no more than 15
15 minutes.

16 Q. And ten or 15 minutes, does that
17 include the stretch-and-flex portion?

18 A. Yes, because sometimes, depending on
19 the volume, we would conduct a meeting while the
20 employees were conducting stretch and flex.

21 Q. So they would be exercising --

22 A. Right.

1 A. So that way he would know what I
2 talked about.

3 Q. So when did you start -- are you
4 talking about -- the notes that you wrote out on
5 a blank piece of paper -- why don't you leave the
6 exhibit for just a minute?

7 A. Okay.

8 Q. We'll get to it in some detail.

9 A. Okay.

10 Q. You just described writing notes to
11 Ron on a blank piece of paper.

12 A. Right, on a piece of copier paper.

13 Q. Were those notes that you gave him on
14 a regular basis for every meeting?

15 A. Yeah, when it was something he needed
16 to know.

17 Q. Okay.

18 A. Not like this (indicating).

19 Q. Okay, so the notes that you wrote out
20 you did so on a blank piece of paper?

21 A. Right.

22 Q. That was only when there was a certain

1 topic in the meeting that you felt that he needed
2 to know?

3 A. Right.

4 Q. It was not your -- was it your regular
5 practice --

6 A. No.

7 Q. Let me finish the question.

8 A. Okay.

9 Q. Was it your regular practice to write
10 out notes for Ronald Lockhart on a blank piece of
11 paper and to give it to him for every pre-sort
12 meeting that you presented, that you were
13 responsible for?

14 A. No.

15 Q. Okay.

16 So, at some point though you started
17 using this form to give him notes; is that right?

18 A. Yes.

19 Q. Do you recall using this form
20 (indicating) to give notes to Ron Lockhart about
21 the pre-sort meeting -- and the form I'm talking
22 about is the form that's VCF 170 -- prior to

1 Q. And that's on all of them.

2 A. Because it's the original document and
3 then copies were made from the original document.

4 Q. So, do you think you created the
5 original document on November 8th of 2002?

6 A. I would have to say yes. And then it
7 was duplicate copies were made after that, just
8 blanks to fill in each day.

9 Q. So after you created the form on the
10 computer what did you do with it?

11 A. Saved it so I could make original --
12 you know, make originals when I needed them.

13 Q. Okay, do you know what prompted you to
14 go to Mr. McCollum to ask him about how he
15 communicated with Firpo?

16 A. In a manager's meeting --

17 Q. Um-hum.

18 A. -- I asked him.

19 Q. And when was that meeting?

20 A. I don't know. But we held the
21 meetings on Wednesdays, but I don't know the
22 exact date.

1 changes to the cypher lock code, how was that
2 typically communicated to the handlers?

3 A. When they showed up at work.

4 Q. At a meeting?

5 A. No, when they actually showed up at
6 the door and couldn't get in.

7 Q. Okay, and then --

8 A. Then someone would give it to them and
9 they got in and then we would address it that
10 morning when we came in, that it had been
11 changed. But they would already have known.

12 Q. Would they know what the new
13 combination was?

14 A. Not prior to getting to work.

15 Q. But once they had gotten to work, but
16 prior to attending the meeting, would they know
17 what the new combination was?

18 A. Yes.

19 Q. And how would they know?

20 A. Another employee would tell them.

21 Q. I want to make sure I understand this.
22 Was there an employee who was

1 primarily responsible for letting the people in
2 on the day that the combination was changed?

3 A. Anybody that was going out.

4 If you came to the front door to get
5 in and say, for instance, the combination was 1,
6 2, 3 when you left this morning, meaning this
7 morning.

8 Q. Right.

9 A. Midday, by now, 1:00 or 2 o'clock in
10 the afternoon the cypher lock would be changed.
11 So even the p.m. employees who reported to work
12 at 7 o'clock wouldn't know that the cypher lock
13 had been changed until they came to work.

14 Q. Right.

15 A. Now, once they came to work customer
16 service, someone in the customer service area,
17 which is in the front, would either tell them or
18 an employee exiting the building would tell that
19 employee what the new cypher lock code was and
20 then they would come in the building.

21 Q. Okay.

22 A. So, a manager -- we didn't pick up the

1 phone and call each employee's house or E-mail
2 them and say hey, the new number is now 3, 4, 5,
3 they didn't find out until they got to the
4 premises.

5 Q. And the ways in which they found out
6 was either an exiting employee would tell them --

7 A. Right.

8 Q. -- as they were entering --

9 A. Correct.

10 Q. -- or a customer service --

11 A. Customer service, yeah, because they
12 were open until 7 o'clock. Just like any Kinkos
13 where you drop off FedEx packages, we had our own
14 right there at the front of the building.

15 Q. Okay.

16 A. So those employees inside of that
17 customer service area are FedEx employees so they
18 knew everybody that worked pretty much at the
19 ramp because, one, they had a badge and they had
20 an airport ID that said BWIR. And then they
21 would say hey, what's the new combination, the
22 person would make sure nobody was listening,

1 either write it on a piece of paper or verbally
2 tell them the new combination is 3, 4, 5.

3 Q. So there was nothing more formal than
4 what you just described in terms of communicating
5 the new code to the employees?

6 A. No, because we didn't know until we
7 came to work. The managers didn't know until we
8 came to work that the cypher lock had been
9 changed.

10 Q. And then once the employees were able
11 get in was the new code communicated to them at
12 the pre-sort meeting?

13 A. Yes, verbally. And to Ron it was
14 written down on a piece of paper saying the new
15 door code is, and the number.

16 Q. Do you recall any circumstances in
17 which Mr. Lockhart was unable to enter the
18 building because he wasn't able to obtain the new
19 code?

20 A. Sure, that would have been any time
21 the cypher lock was changed.

22 Q. Okay.

1 **must sign..."**

2 **Okay, let's stop there.**

3 A. Yeah, because what came up then was
4 the fact that Ron was saying that he did not know
5 what questions were being asked during the
6 meeting. He had no way of knowing what was being
7 asked during the meeting.

8 So, if you had a question based on a
9 topic that was covered, like "be sure to practice
10 T-Stacking as much as possible," and you had a
11 comment about it, Ron had no way of knowing what
12 your comment was.

13 So, I asked Licha Wilson and Yolanda
14 Jacobs, who were both members of safety
15 committee, to take notes of the questions that
16 were asked and the responses. Because I couldn't
17 write down the questions and the responses and
18 hold a meeting at the same time.

19 Q. Um-hum.

20 A. So I needed help, so I asked these
21 ladies to write the notes down, the questions
22 down and get back to Ron and Barbara with the

1 **counseling?**

2 A. Yes.

3 Q. How do you know that?

4 A. Should have -- somewhere in this thing
5 it should have my employee number somewhere on
6 it.

7 Q. Oh, under manager at the top?

8 A. Yeah, 204573.

9 Q. Yeah. Okay.

10 And do you recall why you gave him a
11 **documented counseling at this point related to**
12 **attendance?**

13 A. Yeah, because any time an employee is
14 out within like a reasonable amount of time you
15 have to counsel them on what their current
16 attendance percentage is before they fall into
17 below satisfactory standards.

18 It's that way before you issue any
19 written documentation to them they have an idea
20 of where they are, where they fall.

21 Q. Okay.

22 Did you make Mr. Lockhart aware of the

1 **the policy?**

2 A. Every one. Every time Mr. Lockhart
3 was issued discipline he was given a copy to
4 refer to of that discipline, a copy of the
5 discipline.

6 Q. When you say "the discipline" are you
7 referring to the performance policy or the
8 attendance policy?

9 A. Attendance. I don't believe
10 Mr. Lockhart had any performance issues. His
11 issues were attendance, not performance. Ron
12 worked well when he was at work.

13 Q. Is there a policy that FedEx maintains
14 related to progressive discipline that you're
15 aware of?

16 A. Yes, it's covered in the People's
17 Manual.

18 Q. And did you give Mr. Lockhart a copy
19 of that policy?

20 A. The attendance policy. And as far as
21 the discipline policy, I believe Mr. Lockhart
22 should have had a copy of that from Mr. Thompson

1 21st, through January 25th.

2 Q. Does your signature appear anywhere on
3 that document?

4 A. No, ma'am.

5 Q. If you look in the upper, right-hand
6 corner, is that your handwriting?

7 A. Yes.

8 Q. What does that say?

9 A. Time available to be used as of 12/27,
10 I believe '02.

11 Q. So you approved -- does that indicate
12 that you were approving the use of this time off?

13 A. I'm sorry.

14 Q. Tell me what your notation means.

15 A. This notation means to Elizabeth that
16 Ron has the time available to use as vacation.

17 Q. Right.

18 A. Not personal time.

19 Q. That means he had available vacation
20 days that he hadn't used yet?

21 A. Correct.

22 Q. Why did you approve the use of

1 vacation time for an employee who was being
2 disciplined for an attendance deficiency?

3 A. You can't stop a person from taking
4 vacation even if they are being disciplined.

5 Q. Why not?

6 A. It's their time to use, they have
7 accrued it.

8 Q. So, did you have any concerns about
9 Mr. Lockhart missing this work when you made that
10 notation on the form?

11 A. No. I couldn't stop him from taking
12 vacation.

13 (Doctor's Note and
14 Instructions, marked for
15 identification as
16 Plaintiff's Exhibit No.
17 18.)

18 BY MS. MOROCCO:

19 Q. Have you seen these documents before?

20 A. I believe I have.

21 Q. And when do you think you've seen them
22 before?

1 A. I'm not sure. I guess it would be
2 sometime during the week of the 15th.

3 Q. And how would these documents have
4 come to your attention during that week?

5 A. Ron would have had to bring them in
6 himself.

7 Q. And do you recall him doing that?

8 A. Yes. I remember him coming in, making
9 copies and giving me copies of this stuff.

10 Q. Okay, and was that the day he was
11 terminated, do you know?

12 A. No.

13 Q. When was it?

14 A. This was prior to. Ron -- Ron was out
15 sick these days. Ron came in to make copies and
16 to talk to Bobby Inzer about his airline tickets
17 to go on vacation.

18 Q. Um-hum.

19 A. And that's when Ron brought these
20 documents in, okay?

21 And this was -- and it was explained
22 to Ron that this didn't give him -- you know,

1 this didn't excuse him from being off from work.
2 All this was was just letting us know why he was
3 off from work.

4 Q. How did you know about any
5 conversation that Ron Lockhart had with Mr. Inzer
6 when he came in?

7 A. Because prior to that Bobby was
8 assisting Ron with getting airline tickets,
9 employee discount airline tickets to go to
10 California on vacation.

11 Q. How did you know about that?

12 A. Because Bobby told me.

13 Q. When did Mr. Inzer tell you this?

14 A. Back in December, because I was
15 working with him and Ron trying to help him get
16 these tickets to go on vacation.

17 Q. So, how did you know of any
18 conversation that Mr. Inzer and Mr. Lockhart may
19 have had in January about --

20 A. Because Ron had asked me prior to
21 going out sick had Bobby got his tickets.

22 Q. Um-hum.

1 A. And I think there was a holdup about
2 one of Ron's family members not being able to get
3 a ticket for one of his family members that
4 wasn't his immediate family. So I had Bobby
5 explain to him, you know, just what the policy
6 was, that -- that Federal Express had set us up
7 for traveling and you can't go on vacation while
8 you're out sick. You can't come off of sick, not
9 return to work and then go on vacation.

10 Q. Did you explain that to Mr. Lockhart?

11 A. Yes. Yes.

12 Q. Did you explain that when he came in
13 about the tickets?

14 A. Yes.

15 Q. How did you know he was at the
16 facility?

17 A. I happened to see him walk down the
18 hall past my office.

19 Q. And what did you say to him?

20 A. Where have you been.

21 Q. How did you say that to him?

22 A. In writing.

1 you say that you asked him where he had been and
2 he indicated to you that he was sick; is that
3 right?

4 A. Yes.

5 Q. And at the point did he give you the
6 medical documentation?

7 A. He gave me these papers here
8 (indicating).

9 Q. Did you have any additional discussion
10 with him at that point?

11 A. Just to the fact that he was in
12 violation of his attendance agreement that he had
13 written up.

14 Q. Um-hum, and what did you tell him
15 specifically about that?

16 A. I don't recall specifically what I
17 told him, but I brought it to his attention that
18 he was in violation of his own performance
19 agreement.

20 Q. Was anybody else present during this
21 exchange between you and Mr. Lockhart?

22 A. I can't recall.

1 Q. Was Bobby Inzer there?

2 A. No.

3 Q. And how -- tell me how you knew that
4 Mr. Lockhart had come in on that day to see
5 Mr. Inzer?

6 A. I didn't. I just questioned him about
7 it, Ron, in writing, about what was he doing back
8 on the facility if he was sick and why wasn't he
9 at work.

10 Q. Um-hum.

11 A. And that's when told me he came in to
12 see about his tickets to go on vacation.

13 Q. Right.

14 And did you have any further
15 discussion with him?

16 A. No.

17 Q. If the leave had been approved, the
18 use of vacation leave, then was there a problem
19 with him then taking vacation the next week?

20 A. Yeah, because Ron had not come back to
21 work. You have to be back to work before this
22 vacation stuff or leaving. There's a policy

1 A. No.

2 Q. So he came in sometime prior to the
3 17th about his tickets?

4 A. Yes.

5 Q. And when you had the exchange with him
6 when he came in related to his tickets, did you
7 tell him about the meeting that was going to
8 occur concerning his discipline?

9 A. Yes.

10 Q. So you told him in person.

11 A. Yes.

12 Q. So then why did you also -- did you
13 also call him?

14 A. Yes, to confirm that we were having
15 it, yes. Because at the time Ron came in Ron was
16 -- he gave me these documentations (indicating)
17 saying that this is why he was off and that he
18 would be back on I believe it was 1/20. And I
19 told him that was unacceptable, he can't prepare
20 to travel if he's not fit for work.

21 Q. Um-hum.

22 A. And he said that that -- that's his

1 documentation, that's why he's out. And I said
2 to him you can't travel unless you're fit for
3 work, okay? And Ron said that oh, that was
4 unacceptable and he was still going on vacation.

5 Well, Ron is a grown man, I can't stop
6 him but he wouldn't be traveling on those tickets
7 because that's in violation of the policy. And I
8 told him that. If he wanted to go he could still
9 go but he had to get his own tickets because
10 those were going to be voided.

11 Q. This entire exchange was in writing?

12 A. Yes, to Ron.

13 Q. Did you ever consider --

14 (Knock at the door.)

15 MS. MOROCCO: Can we go off for a
16 minute?

17 (Whereupon, there was a short pause in
18 the proceedings.)

19 MS. MOROCCO: Can you read back the
20 last answer for me?

21 THE REPORTER: "Answer: And he
22 said that that -- that's his

1 **anybody at FedEx about any concerns that you**
2 **might have had about the documentation he had**
3 **given you?**

4 A. No, only the fact that I informed
5 Mr. Hanratty about the documentation.

6 Q. **What did you say to Mr. Hanratty?**

7 A. That Ron had come in in the middle of
8 the night to give me his sick slip and he was
9 going on vacation and I told him that he couldn't
10 go on vacation.

11 Q. **Okay, did Mr. Hanratty say anything in**
12 **response to what you told him?**

13 A. That we needed to consult HR for what
14 was the next step.

15 Q. **Okay, and did you consult HR?**

16 A. Mr. Hanratty did, I didn't.

17 Q. **Okay, who did he consult with, do you**
18 **know?**

19 A. It would have been Hank Arrington.

20 Q. **And did Mr. Hanratty report back to**
21 **you after consulting with Mr. Arrington?**

22 A. Yes. And that's what we came up with

1 this letter (indicating).

2 Q. What did Mr. Hanratty say to you with
3 regards to his consultation with Mr. Arrington?

4 A. To be consistent with performance
5 across the board that we needed to terminate Ron.

6 Q. Did Mr. Hanratty use the word
7 "consistent," do you know for sure?

8 A. Yeah. It's -- yeah, it's all based on
9 consistency.

10 Q. Okay.

11 So, how much time elapsed from
12 Mr. Lockhart leaving the facility -- or how much
13 time elapsed from you concluding your
14 conversation in writing with Mr. Lockhart to when
15 Mr. Hanratty informed you about his conversation
16 with Mr. Arrington?

17 A. No more than 24 hours.

18 Q. So, are we now talking about the 17th?
19 It's now the 17th?

20 A. Talking about the 17th.

21 Q. Okay, and at what point was the
22 decision made to issue the final performance

1 **you typed it other than the fact that that's the**
2 **date of the letter?**

3 A. I don't know, but that's the date I
4 typed it.

5 Q. Okay.

6 The morning of the 17th, are we
7 talking about like the early morning hours?

8 A. 00 early.

9 Q. I don't know what that means.

10 A. That's like 12:45 a.m. Friday day
11 morning, like right after midnight, Friday
12 morning.

13 Q. And around what time on the previous
14 day did Mr. Lockhart come?

15 A. It would have been between, I would
16 say, 2:30 and 4:30 on the 16th, a.m., early a.m.

17 Q. He came essentially in the middle of
18 the night?

19 A. In the middle of the night.

20 Q. Because are you typically there at
21 that time?

22 A. That's our schedule.

1 of your stack.

2 A. In the beginning?

3 Q. Yeah.

4 A. Okay.

5 Q. Actually, you know what, skip it.

6 MS. MOROCCO: Go ahead.

7 EXAMINATION ON BEHALF OF THE DEFENDANT

8 BY MR. EFKEMAN:

9 Q. Mr. Cofield, we've talked a lot about
10 your communication with Ron Lockhart.

11 Did you -- could you understand his
12 notes when he wrote them to you?

13 MS. MOROCCO: Objection.

14 THE WITNESS: Yes.

15 BY MR. EFKEMAN:

16 Q. Did he ever say that he didn't
17 understand your notes back to him?

18 A. No.

19 Q. You talked about some E-mails with
20 Ron. How often did you E-mail with him back and
21 forth?

22 A. Only if he sent me something after

1 work. Because I had access, I had E-mail access
2 at home, so anything that he sent to my FedEx
3 E-mail address I could look at it while I was at
4 home, so I could respond back to him.

5 Q. And how often would you say that
6 happened?

7 A. I think it was once in a while, I
8 mean, like maybe four times tops that Ron would
9 send me something, I would send him a response
10 and send it back so that way he wouldn't have to
11 wait until we got there that morning.

12 Q. Could you understand the E-mails when
13 he --

14 A. Oh, yeah, Ron could type, yeah.

15 Q. Did he ever tell you that he didn't
16 understand the memos that you gave him at work?

17 MS. MOROCCO: Objection to form,
18 there's no time frame.

19 THE WITNESS: No. And if he had a
20 question he would write the question out just
21 like we did in these papers here, and I would
22 answer.

1 A. No, not that was brought to my
2 attention, no.

3 And, I mean, I observed him doing the
4 job and the scanning and placing it and tying up
5 the bags, you know, what was the procedure for
6 that particular job.

7 Q. Did he ever have any safety problems?

8 A. No.

9 Q. You said he didn't get any tickets.
10 Did you ever end up having to counsel him on any
11 safety issues?

12 A. No.

13 Q. Last question about the interpreter.
14 Was there ever a time that Derwood came and
15 didn't bill you?

16 A. No, because he would leave -- if I
17 wasn't present Derwood would leave the bill on my
18 desk if I had to go downstairs for the sort.
19 Because sometimes I would leave Ron and Derwood
20 in the conference room so that way if -- Ron
21 could talk to Derwood about any concerns he had.
22 And if there was concerns then Derwood would come